

## **Business and Professions Code — Funeral Law**

### **CHAPTER 12. FUNERAL DIRECTORS AND EMBALMERS**

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### **CHAPTER 12. FUNERAL DIRECTORS AND EMBALMERS**

Article 1.	Administration .....	7600-7612
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§ 7600. This chapter of the Business and Professions Code constitutes the chapter on funeral directors and embalmers. It may be cited as the Funeral Directors and Embalmers Law.

§ 7601. The following terms as used in this chapter shall have meanings expressed in this section:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of Consumer Affairs.
- (c) "Bureau" means the Cemetery and Funeral Bureau.

§ 7601.1. Protection of the public shall be the highest priority for the Cemetery and Funeral Bureau in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

§ 7602. There is in the department the Cemetery and Funeral Bureau, under the supervision and control of the director.

The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to such conditions and limitations as the director may prescribe.

§ 7606. The bureau may, pursuant to the provisions of the Administrative Procedure Act, adopt and enforce reasonably necessary rules and regulations relating to:

- (a) The practice of embalming;
- (b) The business of a funeral director;
- (c) The sanitary conditions of places where such practice or business is conducted with particular regard to plumbing, sewage, ventilation and equipment;
- (d) Specifying conditions for approval of funeral establishments for apprentices and for approval of embalming schools;
- (e) The scope of examinations;
- (f) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, welfare and morals of the public.

§ 7607. The bureau may inspect the premises in which the business of a funeral director is conducted or where embalming is practiced, or where human remains are stored.

§ 7608. The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service regulations.

With the approval of the Director of Finance, and, subject to the provisions of Section 159.5, the bureau shall employ investigators and attorneys to assist the bureau in prosecuting violations of this chapter, whose compensation and expenses shall be payable only out of the State Funeral Directors and Embalmers Fund.

§ 7609. This chapter does not apply to, or in any way interfere with, the duties of any officer of any public institution or of any duly accredited medical college, nor does it apply to any hospital licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, anyone engaged only in the furnishing of burial receptacles, or anyone engaged in the operation of a cemetery solely for the interment of human dead.

§ 7610. All suits or actions commenced in the superior court against the bureau shall be filed and tried either in the County of Sacramento, or in the county of the residence of the plaintiff or petitioner, or in the county where the act occurred, which is the basis of the suit or action.

§ 7612. The bureau shall do all of the following:

- (a) Conduct a comprehensive study of the need to regulate third-party casket retailers.

~~—(b) Report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004, on the matter.~~

Article 2. Funeral Directors ..... 7615-7635

§ 7615. A funeral director is a person engaged in or conducting, or holding himself or herself out as engaged in any of the following:

- (a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains.
- (b) Maintaining an establishment for the preparation for the transportation or disposition or for the care of human remains.
- (c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.

§ 7616. (a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

- (1) A suitable room or refrigeration for the storage of human remains.
- (2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.
- (b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.
- (c) Except as provided in Section 7609, and except accredited embalming schools and colleges engaged in teaching students the art of embalming, no person shall operate or maintain or hold himself or herself out as operating or maintaining any of the facilities specified in paragraph (2) of subdivision (a), unless he or she is licensed as a funeral director.
- (d) Nothing in this section shall be construed to require a funeral establishment to conduct its business or financial transactions at the same location as its preparation or storage of human remains.
- (e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the maintenance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

~~(f) Every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal of its funeral director's license, be issued a funeral establishment license.~~

§ 7616.2. A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

§ 7617. The business of a licensed funeral establishment shall be conducted and engaged in at a fixed place or facility.

No person, partnership, association, corporation, or other organization shall open or maintain a place or establishment at which to engage in or conduct, or hold himself or herself or itself out as engaging in or conducting, the business of a funeral establishment without a license.

§ 7617.1. The applicant for a funeral establishment license, or in the case the applicant is an association, partnership, or corporation, all officers of the corporation or association or all general partners of the partnership shall be at least 18 years of age and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

§ 7618. An application for a funeral director's license shall be written on a form provided by the bureau, verified by the applicant, accompanied by the fee fixed by this chapter and filed at its Sacramento office.

§ 7619. The applicant for a funeral director's license shall be at least 18 years of age, possess an associate of arts or science degree, or the equivalent, or a higher level of education as recognized by the Western Association of Colleges and Universities, or any other nationally recognized accrediting body of colleges and universities, and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

§ 7619.2. The bureau shall grant a funeral director's license to any applicant who complies with this article, notwithstanding Section 7619, if the applicant can demonstrate that he or she has complied with Section 7622 on or before July 1, 1999.

§ 7619.3. No licensed funeral director shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a funeral director without being employed by, or without being a sole proprietor of, a licensed funeral establishment.

§ 7620. The application shall specify the address at which the applicant proposes to engage in or conduct a place of business as a funeral director.

§ 7621. The applicant shall also furnish the bureau with satisfactory proof that the facility in which he or she intends to conduct business as a funeral director is or will be constructed, equipped and maintained in all respects as a licensed funeral establishment as defined in this chapter.

§ 7622. Before an individual is granted a funeral director's license, he or she shall successfully pass an examination upon the following subjects:

- (a) The signs of death.
- (b) The manner by which death may be determined.
- (c) The laws governing the preparation, burial and disposal of human remains, and the shipment of bodies dying from infectious or contagious diseases.
- (d) Local health and sanitary ordinances and regulations relating to funeral directing and embalming.

§ 7622.2. No person, partnership, association, corporation, or other organization shall open or maintain a place or establishment at which to engage in or conduct, or hold himself, herself, or itself out as engaging in or conducting, the activities of a funeral director without a license.

§ 7622.5. An applicant for examination under Section 7622 shall pay the funeral director's examination fee fixed by this chapter.

§ 7623. If an applicant for a funeral establishment license proposes to engage in or conduct more than one funeral establishment, the applicant shall make a separate application and procure a separate license for each separate establishment.

§ 7624. Not more than one person, partnership, association, corporation, or other organization engaged in business as a funeral establishment shall transact business in one specific funeral facility.

§ 7625. Upon receipt of an application for a license, the bureau shall cause an investigation to be made of the physical status or plans and specifications of the

proposed funeral establishment, and of the other qualifications required of the applicant under this chapter, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

The bureau shall grant a license if it finds that the proposed funeral establishment is or will be constructed and equipped as required by this chapter and that the applicant is qualified in all other respects as required by this chapter.

§ 7626. The bureau shall examine and pass upon the qualifications of the applicant as to ability and experience before passing upon the physical status or plans and specifications of the proposed funeral establishment.

§ 7626.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

§ 7627. Every application for a funeral director's license under this article shall be granted or refused within ninety days from the date of the filing of the application, or within thirty days after the close of the hearing upon the application, in case a hearing is held.

§ 7628. Any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefor on forms furnished by the bureau and shall include a fee fixed by this chapter.

The application shall be granted by the bureau upon the filing with the bureau of a favorable report from an inspector concerning the physical status or plans and specifications of the proposed licensed funeral establishment to the effect that it conforms to the requirements of this article.

§ 7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral establishment / funeral director so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

§ 7630. A funeral establishment's license may be assigned upon payment of the fee fixed by this chapter and upon submission of an audit report prepared and signed by an independent certified public accountant or public accountant currently licensed in this state. The audit report shall include an unqualified opinion on the accuracy of the trust

fund balances and a report of compliance with the provisions of this article and Article 9 (commencing with Section 7735). Any shortages in the trust funds shall be funded.

The assignee shall comply with all provisions previously placed on the assignor.

§ 7631. In case of the death of a licensed funeral director who leaves a funeral establishment as part or all of the assets of his or her estate, the bureau may issue a temporary license to his or her legal representative, unless the legal representative has committed acts or crimes constituting grounds for denial of licensure under Section 480. A temporary establishment license is valid for six months from the date of issue. However, upon the petition of the estate's legal representative, the bureau, in its discretion, may grant a reasonable extension to allow for the assets of the estate to be distributed as circumstances warrant.

§ 7632. Every funeral director shall cause all human remains embalmed in or at the direction of his or her funeral establishment to be embalmed by a licensed embalmer, or by an apprentice embalmer under the supervision of his or her licensed supervising embalmer.

§ 7633. No funeral director shall charge a fee for filing a certificate of death or for providing copies thereof in excess of fees set by statute for filing and providing certified copies of such certificates.

§ 7634. Notwithstanding any other provision of law, a licensed embalmer, at the request of a licensed physician, may remove tissue from human remains for transplant, or therapeutic, or scientific purposes specified in, and pursuant to, the provisions of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code), if such embalmer has completed a course in tissue removal for transplant, or therapeutic, or scientific purposes approved by the Medical Board of California of the State of California.

§ 7635. (a) Any person employed by, or an agent of, a licensed funeral establishment, who consults with the family or representatives of a family of a deceased person for the purpose of arranging for services as set forth in subdivision (a) of Section 7615, shall receive documented training and instruction which results in a demonstrated knowledge of all applicable federal and state laws, rules, and regulations including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws, rules, and regulations pertaining to the duties of a funeral director. A written outline of the training program, including documented evidence of the training time, place, and participants, shall be maintained in the funeral establishment and shall be available for inspection and comment by an inspector of the bureau.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

Article 3.        Embalmers..... 7640-7650

§ 7640. An embalmer is one who is duly qualified to disinfect or preserve human remains by the injection or external application of antiseptics, disinfectants or preservative fluids; to prepare human bodies for transportation which are dead of contagious or infectious diseases; and to use derma surgery or plastic art for restoring mutilated features; and who is duly licensed as an embalmer under the laws of the State of California.

§ 7641. It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in embalming colleges approved by the bureau.

§ 7642. An application for an embalmer's license shall be written on a form provided by the bureau, verified by the applicant, and accompanied by the fee fixed by this chapter.

§ 7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.
- (d) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.
- (e) Have successfully completed a course of instruction of not less than one academic year in an embalming school approved by the bureau and accredited by the American Board of Funeral Service Education.



§ 7646. The bureau shall require the applicant to pass an examination, which shall include the following subjects:

- (a) Theory and practice of embalming.
- (b) Anatomy, including histology, embryology and dissection.
- (c) Pathology and bacteriology.
- (d) Hygiene, including sanitation and public health.
- (e) Chemistry, including toxicology.
- (f) Restorative art, including plastic surgery and demisurgery.
- (g) Laws, rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

§ 7647. The bureau shall examine applicants for embalmer's licenses at least once annually.

Examinations shall be held at such times and places as may be determined by the bureau.

Notice of the time and place of such examinations shall be given as determined by the bureau.

§ 7647.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

§ 7648. No embalmer's license is assignable, and only the licensee may engage in the practice of embalming under the license.

§ 7649. Except as provided in Section 102805 of the Health and Safety Code, whenever the name of any licensed embalmer is subscribed to any certificate, the purport of which is that he or she has performed any act mentioned in the certificate, the licensed embalmer shall actually sign his or her name thereto.

§ 7650. From time to time, the bureau may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.

Article 4. Apprentices ..... 7660-7671

§ 7660. An apprentice embalmer is a person engaged in the study of embalming under the instruction and supervision of a licensed embalmer who has had at least two years' practical experience as a California licensed embalmer.

§ 7661. An application for registration as an embalmer's apprentice shall be made upon a form provided by the bureau, verified by the applicant and accompanied by the fee fixed by this chapter.

§ 7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

§ 7664. Certificates of apprenticeship issued pursuant to this article shall expire when the holder has been issued a license as an embalmer, or six years from the date of registration, whichever first occurs. The certificates may not be renewed, but an apprentice embalmer who has not completed his or her term of apprenticeship at the time his or her certificate expires may apply for reregistration upon compliance with Section 7661. The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but no reregistration shall have the effect of continuing the term of apprenticeship beyond the period specified in Section 7666.

§ 7665. All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

- (a) Shall file a report of apprenticeship as follows:
  - (1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.
  - (2) Upon change of supervising embalmer or employer, or both.
  - (3) Upon completion of apprenticeship.
  - (4) Upon application for leave of absence for a period in excess of 15 days.
  - (5) Upon suspending apprenticeship to attend embalming college.
  - (6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

§ 7666. (a) The term of apprenticeship shall be two years. However if an apprentice after having served his or her apprenticeship fails to pass the examination for an embalmer's license he or she may continue for one additional term of apprenticeship, which shall be the maximum apprenticeship permitted and provided further that an apprentice may, upon filing an application therefor, be permitted to continue the apprenticeship for a period not to exceed six months, if approved, for any of the following reasons:

(1) While awaiting the processing of applications submitted to the bureau.

(2) While awaiting notification of grades of embalmers' examinations administered by the bureau.

(3) While awaiting the commencement of a class of an embalming school or college when the apprentice intends to enroll in the school or college.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the embalming college course at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the examination for an embalmer's license required in Section 7646 of this code, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending an embalming college may register as an apprentice during his or her college term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

§ 7667. (a) The bureau shall have the power to grant leaves of absence and extensions of leaves of absence and approve absences during the term of apprenticeship.

(b) A leave of absence, including any extensions, shall not be approved for a longer period than an aggregate of one year.

(c) No credit will be given to an apprentice on his or her apprenticeship for the period during which he or she is absent from duty on leave.

(d) Application for a leave of absence and for an extension thereof shall be made by the apprentice on a form provided by the bureau.

(e) Upon termination of a leave of absence, the apprentice shall report that fact to the bureau within 10 days of his or her resumption of apprenticeship by returning to the bureau, his or her certificate of registration accompanied by a statement as to the resumption of apprenticeship which statement shall be certified as correct by the funeral director in whose establishment he or she is to resume his or her duties and by the embalmer under whose supervision he or she is to resume his or her apprenticeship.

(f) Failure to report within 10 days after the expiration date of any leave of absence shall be cause for cancellation of the registration of an apprentice.

§ 7668. The bureau may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, if the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his or her apprenticeship.

(b) Failure to make any report required by this chapter.

(c) Absence from duty except as provided in this code.

(d) Being on duty as an apprentice while under the influence of any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of the Business and Professions Code, or alcoholic beverages or other intoxicating substances, to an extent dangerous or injurious to himself, herself, any person, or the public to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her certification.

(e) Disobedience of proper orders or instructions of his or her superior.

(f) Violation of any provision of this chapter or any rule or regulation of the bureau.

(g) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(i) Conviction of a crime substantially related to the qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy, shall be conclusive evidence of the conviction.

§ 7669. An apprentice who has had his or her certificate of apprenticeship suspended or revoked may, within one year after the suspension or revocation apply for reregistration upon compliance with the law in effect at the time he or she so applies and payment of the apprentice application fee fixed by this chapter. No reregistration shall have the effect of continuing an apprenticeship beyond the period specified in Section 7666.

The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but if the

previous registration has been suspended or revoked for unprofessional conduct, not more than 75 percent of the time previously served shall be credited on the reregistration.

§ 7670. (a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval the funeral director shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

(1) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months immediately preceding the date of the application.

(2) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.

(3) That the licensed funeral establishment of that applicant meets the requirements of law as to equipment, cleanliness and sanitation as determined by an inspection report filed with the bureau.

(b) Licensed funeral establishments under common ownership within close geographical proximity of each other may request any of the following from the bureau:

(1) To be treated in aggregate for the purpose of meeting the requirements of paragraph (1) of subdivision (a).

(2) To designate one additional supervising embalmer per registered apprentice.

(3) To allow a registered apprentice to serve in any or all of the licensed funeral establishments requested and approved pursuant to this section.

(c) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter.

§ 7671. No person who is a duly registered apprentice or a student at an approved embalming school in California at the time of any amendment to this chapter raising the requirements for apprentice embalmers or license as an embalmer, shall be required to comply with the provisions of such amendment.

Article 5.	Licenses.....	7680
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§ 7680. Every license issued shall be displayed conspicuously in the place of business or employment of the licensee.

The form and content of every license issued shall be determined in accordance with Section 164.

Article 5.5.	Funeral Practices .....	7685-7685.6
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§ 7685. (a) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated.

(b) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, prior to the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(c) The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale. The funeral director shall also provide a written statement or list which, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, shall be provided over the telephone, if requested.

§ 7685.1. (a) The funeral director shall in a conspicuous manner place the price on each casket. Individual price tags on caskets shall include the thickness of metal, or type of wood, or other construction, as applicable, in addition to interior and color information. Each casket shall be priced individually, irrespective of the type of service purchased. If a funeral director advertises a funeral service for a stated amount, he or she shall display in a reasonably convenient location in the showroom and have available for sale, any casket which is used for determining that price.

(b) No funeral director shall charge the survivor of the deceased who is handling the funeral or burial arrangements or the responsible party a handling fee for a casket supplied by the survivor or responsible party.

(c) No funeral director or embalmer shall charge any additional fee for handling or embalming a body when death was due to a contagious or infectious disease.

§ 7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

§ 7685.3. The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:

"FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL BUREAU (ADDRESS), (TELEPHONE NUMBER)."

§ 7685.5. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A funeral establishment shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to the drafting of a contract for funeral services, the funeral establishment shall provide, for retention, the consumer with a copy of the consumer guide for funeral and cemetery purchases described in subdivisions (a) and (b).

§ 7685.6. (a) Every funeral establishment, prior to drafting any contract for funeral goods or services, shall present to the survivor of the deceased who is handling the funeral arrangements, or the responsible party, a statement disclosing whether or not the funeral establishment has any preneed agreement made by or on behalf of the deceased. If the funeral establishment has a preneed agreement made by or on behalf of the deceased, the statement shall also declare the establishment's compliance with Section 7745. The disclosure statement shall be signed and dated by the representative of the funeral establishment and by the survivor or responsible party. The completed disclosure statement shall be retained by the funeral establishment for a period of time determined by the bureau, and a copy shall be given to the survivor or responsible party.

(b) The bureau shall develop a form, in consultation with the funeral industry and any other interested parties, that is separate and distinct from other forms, upon which the disclosure statement shall be made. The bureau shall make the form available to



funeral establishments for purposes of reproduction and distribution, and the form shall also be available electronically through the Internet. The form shall be simple and easy to read and shall include all of the following:

- (1) The definition of a preneed arrangement, adopted by the bureau by regulation.
- (2) A statement of the funeral establishment's responsibilities under Section 7745.
- (3) Information about how the consumer may contact the bureau for more information or how to file a complaint against a licensee.
- (c) A violation of this section constitutes grounds for disciplinary action.
- (d) This section shall become operative July 1, 2002.

Article 6. Disciplinary Proceedings..... 7686-7711

§ 7686. The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

§ 7686.5. All accusations against licensees shall be filed with the bureau within two years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the bureau, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within three years after such discovery.

§ 7687. Upon receipt of a complaint, the bureau may make or cause to be made such investigation as it deems necessary.

§ 7690. The bureau may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting a ground for disciplinary action.

Any of the following penalties may be imposed by the bureau:

- (a) Suspension of the disciplinary order.
- (b) Reproval, public or private.
- (c) Probation.
- (d) Suspension of the right to practice.
- (e) Revocation of the right to practice.
- (f) Such other penalties as the bureau deems fit.

§ 7691. Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

§ 7692. Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

§ 7692.5. Any false or misleading statement regarding any law or regulation pertaining to the preparation for burial, transportation for burial, or burial of the dead, made wilfully by a licensee to obtain business as a funeral director or embalmer, constitutes a ground for disciplinary action.

§ 7693. False or misleading advertising as a funeral establishment, funeral director, or embalmer constitutes a ground for disciplinary action.

§ 7694. Solicitation, after a death or while a death is impending, of funeral directing or embalming business by the licensee, or by the agents, assistants or employees of the licensee, when such solicitation is authorized or ratified by the licensee, constitutes a ground for disciplinary action. This section does not prohibit general advertising.

§ 7695. Employment by the licensee of persons known as "cappers" or "steerers" or "solicitors," or other such persons to solicit, after a death or while a death is impending, funeral directing or embalming business constitutes a ground for disciplinary action.

§ 7696. Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence human remains may be turned over to a particular funeral director or embalmer constitutes a ground for disciplinary action.

§ 7697. The buying, after a death or while a death is impending, of funeral directing and embalming business by the licensee, the licensee's agents, assistants or employees, or the direct or indirect payment, or offer of payment, of a commission by the licensee, the licensee's agents, assistants or employees for the purpose of such buying of business, constitutes a ground for disciplinary action.

§ 7699. Aiding or abetting an unlicensed person to practice funeral directing or embalming constitutes a ground for disciplinary action.

§ 7700. Using profane, indecent, or obscene language in the course of the preparation for burial, removal, or other disposition of, or during the funeral service for, human remains, or within the immediate hearing of the family or relatives of a deceased, whose remains have not yet been interred or otherwise disposed of constitutes a ground for disciplinary action.

§ 7701. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery constitutes a ground for disciplinary action.

§ 7701.5. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing the purchase of flowers from any particular florist or dealer in flowers, for use in connection with a funeral service, constitutes a ground for disciplinary action.

§ 7702. Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with the burial or other disposition of, human remains constitutes a ground for disciplinary action; provided, however, this section shall not apply to exterior casket hardware which is not sold to the purchaser, or where same is reserved by contract.

§ 7703. Violation of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes a ground for disciplinary action.

§ 7704. Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of human remains constitutes a ground for disciplinary action.

§ 7705. Fraud or misrepresentation in obtaining a license constitutes a ground for disciplinary action.

§ 7706. Refusing to surrender promptly the custody of human remains, the personal effects, and any certificate or permit required under Division 102 (commencing with Section 102100) of the Health and Safety Code that is in the possession or control of the licensee upon the express order of the person lawfully entitled to custody of the human remains constitutes a ground for disciplinary action.

§ 7707. Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action.

§ 7708. The bureau, after a hearing, may deny the application of a funeral establishment, funeral director, embalmer, or apprentice embalmer on proof that the applicant has committed acts or crimes constituting grounds for denial of licensure under Section 480. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

§ 7709. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

§ 7711. When a funeral establishment, funeral director or embalmer has had his, or her, or its license suspended, canceled, or revoked by the bureau, the bureau, upon written application by the licensee affected, upon not less than 10 days' notice to all parties of record in the particular case, and after hearing all evidence offered in support of and in opposition to that application, may, in its discretion, and upon those terms as it may deem just, reinstate the applicant.

Article 7. Penal Provisions ..... 7715-7719

§ 7715. Any person, partnership, association, corporation, or other form of organization, or any agent or representative thereof, who violates any of the provisions of this chapter is guilty of a misdemeanor.

§ 7716. Every funeral establishment, funeral director or embalmer, or the agents or representatives thereof, who, after a death or while a death is impending, pays, offers to pay or causes to be paid, directly or indirectly, any sum of money or other valuable consideration for the securing of business is guilty of a misdemeanor.

§ 7717. Every person, who pays or causes to be paid or offers to pay to any funeral establishment, funeral director or embalmer, or to the agent, assistant or employee of

either, any commission or bonus or rebate or other thing of value in consideration of the funeral establishment, funeral director or embalmer recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery, is guilty of a misdemeanor.

§ 7717.5. Every person who pays or causes to be paid or offers to pay to any funeral establishment, funeral director or embalmer, or to the agent, assistant or employee of either, any commission or bonus or rebate or other thing of value in consideration of the funeral establishment, funeral director or embalmer recommending or causing the purchase of flowers from any particular florist or dealer in flowers, for use in connection with a funeral service, is guilty of a misdemeanor; provided, that this section shall not apply to a funeral establishment or funeral director who owns or operates a flower shop as a part of his, her or its funeral business, or to his, her or its agents or employees.

§ 7718. Every person who, after a death or while a death is impending, solicits or accepts any sum of money or other valuable consideration, directly or indirectly, from a funeral establishment, funeral director or embalmer, his, her, or its agent or representative, in order that the funeral establishment, funeral director or embalmer might obtain business, is guilty of a misdemeanor.

§ 7718.5. Every person as an individual, as a partner in a partnership or as an officer or employee of a corporation, association or other organization, who, without a license, holds himself or herself out as a funeral director, is guilty of a misdemeanor.

§ 7719. Every person guilty of a misdemeanor under the provisions of this chapter, shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

Article 8.        Revenue ..... 7725-7729

§ 7725. A license issued under this chapter shall expire each year on the last day of the month in which the license was originally issued. To renew an unexpired license, the licenseholder shall on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the bureau, and pay the renewal fee prescribed by this chapter.

The bureau shall mail to each licensed funeral establishment, funeral director, and embalmer, addressed to him or her at his or her address of record, a notice that a renewal fee is due and payable.

§ 7725.2. Except as otherwise provided in this article, a license that has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the bureau and payment of all accrued and unpaid renewal fees. If the license is not renewed within 30 days after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7725 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within one year following its expiration, the bureau may require as a condition of renewal that the holder of the license pass an examination on the appropriate subjects provided by this chapter.

§ 7725.3. A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

§ 7725.4. A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the holder of the license, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated plus the delinquency fee, if any, accrued at the time of its revocation.

§ 7725.5. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may obtain a new license only if the holder pays all of the fees, and meets all of the requirements, other than requirements relating to education, set forth in this chapter for obtaining an original license, except that the bureau may issue a new license to the holder without an examination if the holder establishes to the bureau's satisfaction that, with due regard for the public interest, the holder is qualified to engage in the activity in which the holder again seeks to be licensed. The bureau may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

The provisions of this section do not apply to certificates of apprenticeship.

§ 7727. On or before the 10th day of each month, the department shall pay into the State Treasury and report to the State Controller all the fees received for the bureau.

The fees shall be received by the State Treasurer and placed in the State Funeral Directors and Embalmers Fund, which fund is available for expenditures necessary for the proper administration of this chapter.

§ 7729. The amount of the fees prescribed by this chapter shall be fixed according to the following schedule with the minimum amount specified being the amount fixed on January 1, 1988.

(a) The application fee for a funeral director's license shall be not less than one hundred dollars (\$100) and not more than two hundred dollars (\$200).

(b) The application fee for change of location of a funeral establishment's license shall be not less than one hundred fifty dollars (\$150) and not more than two hundred fifty dollars (\$250).

(c) The application fee for permission to assign a funeral establishment's license shall be not less than two hundred dollars (\$200) and not more than three hundred dollars (\$300).

(d) The license renewal fee payable by a licensed funeral director shall be not less than one hundred dollars (\$100) and not more than two hundred dollars (\$200). The fee for a delinquent renewal of a funeral director's license shall be 150 percent of the timely renewal fee.

(e) The application fee for an embalmer's license and the examination for the license shall be not less than one hundred dollars (\$100) and not more than one hundred fifty dollars (\$150).

(f) The renewal fee payable by a licensed embalmer shall be not less than seventy-five dollars (\$75) and not more than one hundred twenty-five dollars (\$125). The fee for a delinquent renewal of an embalmer's license shall be 150 percent of the timely renewal fee.

(g) The application fee for a certificate of registration as an apprentice embalmer shall be not less than thirty dollars (\$30) and not more than sixty dollars (\$60).

(h) The fee for an application by a funeral establishment for approval to train apprentice embalmers and for renewal of that approval shall be not less than fifty dollars (\$50) and not more than one hundred dollars (\$100).

(i) The application fee for a funeral director's examination shall be not less than seventy-five dollars (\$75) and not more than one hundred dollars (\$100).

(j) The fee for a timely filing of an individual report or a combined report on preneed trust funds shall be not less than one hundred dollars (\$100) and not more than two hundred dollars (\$200). The fee for a late filing of any report on preneed trust funds shall be 150 percent of the applicable timely fee.

(k) The application fee for permission to change the name appearing on a funeral establishment's license shall be not less than one hundred dollars (\$100) and not more than two hundred dollars (\$200), and for permission to change the name on any other license or certificate, not less than twenty dollars (\$20) and not more than forty dollars (\$40).

(l) The application fee for a duplicate funeral director's license, a duplicate funeral establishment's license, a duplicate embalmer's license, or a duplicate certificate of registration as an apprentice embalmer, shall be not less than twenty dollars (\$20) and not more than forty dollars (\$40).

(m) The fee for filing a report of a change of corporate officers, managers, or preneed trust fund trustees shall be not less than twenty-five dollars (\$25) and not more than fifty dollars (\$50).

(n) The application fee for a funeral establishment license shall be not less than three hundred dollars (\$300) and not more than four hundred dollars (\$400).

(o) The license renewal fee for a licensed funeral establishment shall be not less than three hundred dollars (\$300) nor more than four hundred dollars (\$400).

Article 9. Preneed Funeral Arrangements..... 7735-7746

§ 7735. No funeral establishment licensed under the laws of the State of California, or the agents or employees of a funeral establishment, shall enter into or solicit any preneed arrangement, contract, or plan, hereinafter referred to as "contract," requiring the payment to the licensee of money or the delivery to the licensee of securities to pay for the final disposition of human remains or for funeral services or for the furnishing of personal property or funeral merchandise, wherein the use or delivery of those services, property or merchandise is not immediately required, unless the contract requires that all money paid directly or indirectly and all securities delivered under that agreement or under any agreement collateral thereto, shall be held in trust for the purpose for which it was paid or delivered until the contract is fulfilled according to its terms; provided, however, that any payment made or securities deposited pursuant to this article shall be released upon the death of the person for whose benefit the trust was established as provided in Section 7737. The income from the trust may be used to pay for a reasonable annual fee for administering the trust, including a trustee fee to be determined by the bureau, and to establish a reserve of not to exceed 10 percent of the corpus of the trust as a revocation fee in the event of cancellation on the part of the beneficiary. The annual fee for trust administration may be recovered by withdrawals from accumulated trust income, provided that total withdrawals for this purpose shall not exceed the amount determined by the bureau. In no case shall the total amount withdrawn in a year for trust administration exceed the total amount of posted trust income for the immediate 12 preceding months. In addition to annual fees and reserves authorized by this section, a trustee may, at its election, pay taxes on the earnings on any trust pursuant to Section 17760.5 of the Revenue and Taxation Code. In no event, however, shall taxes paid on the earnings of any trust be considered part of the fees or reserves authorized by this section. All remaining income shall be accumulated in trust.

None of the corpus of the trust shall be used for payment of any commission nor shall any of the corpus of the trust be used for other expenses of trust administration, or for the payment of taxes on the earnings of the trust.

§ 7735.5. The preneed funeral arrangement contract shall clearly state if benefits are unavailable or limited for any reason.



§ 7736. For the purposes of this article the term "trustee" shall mean any banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds or not less than three persons one of whom may be an employee of the funeral establishment; the word "trustor" shall mean any person who pays the money or deposits the securities used for those preneed arrangements; the term "beneficiary" shall be the person for whom the funeral services are arranged; the words "corpus of the trust" shall include all moneys paid and securities delivered by the trustor pursuant to the provisions of the article.

§ 7737. All securities purchased by the trustor for deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust with a trustee within 30 days of their receipt by the funeral establishment pursuant to a trust agreement executed by the funeral establishment, the trustor and trustee which shall provide that the trustee shall hold the money or securities in trust for the purposes for which deposited and that the trustee, upon the signature of a majority of such trustees, shall deliver the corpus of the trust to the funeral establishment upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral establishment has furnished the merchandise and services, provided, however, that (1) in the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value limitations of those sections are not exceeded, such trust agreement may further provide that it is irrevocable, and (2) in all other cases such trust agreement shall further provide that at any time before the funeral establishment has furnished the merchandise and services provided for in the contract the trustor or the legally appointed representative may in writing demand and receive the return of the corpus of the trust, together with any income accrued in the trust, less the revocation fee provided for in Section 7735; provided, however, that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services, as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, he or she may agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code. The delivery of the corpus of the trust and the accumulated income to the funeral establishment performing the services, trustor or beneficiary pursuant to the terms of this article and the trust agreement herein referred to, shall relieve the trustee of any further liabilities with regard to those funds or income therefrom.

§ 7737.3. All commingled preneed trust funds held by a funeral establishment shall be subject to an annual, independent certified financial audit with a copy of the audit to be submitted to the bureau for review within 120 days of the close of the fund's fiscal year. Any findings of noncompliance with existing law regarding preneed trust funds shall be identified by the auditor in a separate report for review and action by the bureau. Audits and reports of noncompliance shall be filed simultaneously.

§ 7737.5. A trustee may deposit the corpus of the trust in any financial institution insured by the Federal Deposit Insurance Corporation.

§ 7737.7. A trustee may deposit the corpus of the trust in any credit union which is insured by the National Credit Union Share Insurance Fund.

§ 7738. A licensed funeral establishment that is also a licensed cemetery authority shall not deposit any money or securities received in connection with preneed funeral arrangements in a special endowment care fund as provided in Article 4 (commencing with Section 8775) of Chapter 5 of Part 3 of Division 8 of the Health and Safety Code, nor shall a licensed funeral establishment permit the deposit of any money or securities received in connection with a special endowment care fund into a preneed funeral trust fund. Nothing in this section shall require the liquidation or conversion of any lawful investment existing on December 31, 1981.

§ 7739. Any person willfully violating the provisions of this article or any of them shall be punishable either by imprisonment in the county jail for a period not exceeding six months, or by fine not exceeding five hundred dollars (\$500), or by both imprisonment and fine, or by imprisonment in the state prison for 16 months, or two or three years. If the violator is a funeral establishment licensee, he or she shall also be subject to disciplinary action as provided in Article 6 (commencing with Section 7686).

§ 7740. The bureau is authorized to enforce of its own initiative the provisions of this article and may adopt such rules and regulations as in its opinion may be necessary to perform such duties and to safeguard the trust funds subject to this chapter.

§ 7740.5. A funeral establishment shall pay to the bureau the fee fixed by this chapter for filing with the bureau any report on preneed trust funds required by rules and regulations of the bureau adopted pursuant to Section 7740.

§ 7741. Nothing in this article shall apply to cemetery property; cemetery commodities; cemetery service; or merchandise that is delivered as soon as paid for.

§ 7742. Nothing in this article shall apply to any arrangement, contract or plan for the issuance of securities now or hereafter authorized under a permit of the Commissioner of Corporations of this state.

§ 7745. Every funeral establishment shall present to the survivor of the deceased who is handling the funeral arrangements or the responsible party a copy of any preneed agreement which has been signed and paid for in full, or in part by, or on behalf of the deceased and is in the possession of the funeral establishment. The copy may be presented in person, by certified mail, or by facsimile transmission, as agreed upon by the survivor of the deceased or the responsible party. A funeral establishment that knowingly fails to present a preneed agreement to the survivor of the deceased or the responsible party shall be liable for a civil fine equal to three times the cost of the preneed agreement, or one thousand dollars (\$1,000), whichever is greater.

§ 7746. (a) Notwithstanding any other provision of law, a funeral establishment that is otherwise exempt from the requirement of filing an annual preneed trust report or whose preneed trust funds are reported in a combined preneed annual preneed trust report, shall annually file a declaration of nonreporting status with the bureau.

(b) The declaration shall be filed on or before May 1 of each year and shall also be filed upon the transfer of ownership or the cessation of business.

(c) The declaration shall be filed on a form provided by the bureau and shall include, but shall not be limited to, both of the following:

(1) The basis upon which the funeral establishment is exempt from the annual trust reporting requirement.

(2) The specific kind and nature of the exempt preneed arrangements, if any, in which the funeral establishment engages.

(d) The declaration shall be verified by the funeral establishment's owner, a partner, or in the case of a corporation, by the president or vice president.



## **Business and Professions Code – Cemetery Law**

<b>CHAPTER 19.</b>	<b>CEMETERIES</b>	
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<b>CHAPTER 19.</b>	<b>CEMETERIES</b>	
Article 1.	General Provisions .....	9600-9610

§ 9600. This chapter of the Business and Professions Code constitutes the chapter on cemetery regulation. It may be cited as the "Cemetery Act."

§ 9601. The definitions in this article govern the meaning of terms used in the act except as otherwise provided expressly or by necessary implication.

§ 9602. "Act" means Cemetery Act.

§ 9603. The following terms as used in this chapter shall have the meanings expressed in this section:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of Consumer Affairs.
- (c) "Bureau" means the Cemetery and Funeral Bureau.

§ 9604. A cemetery broker is a person who, other than in reference to an occasional sale, sells or offers for sale, buys, or offers to buy, lists, leases or offers to lease, or solicits, or negotiates the purchase or sale, lease or exchange of cemetery property or interment services, or interest therein, for his or her own account or for another.

§ 9605. A cemetery salesperson is a natural person who, other than in reference to an occasional sale, is employed by a cemetery broker to sell, or offer for sale, list or offer to list, or to buy, or to offer to buy, or to lease, or offer to lease, or to solicit, or to negotiate

the purchase or sale or lease or exchange of cemetery property or interment services, or any interest therein, for his or her own account or for another.

§ 9605.1. (a) A cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.

(b) For persons licensed pursuant to Section 9676, a cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the following:

(1) The maintaining, operating, or improving of a cemetery licensed under this chapter.

(2) The interment of human remains.

(3) The care, preservation, and embellishment of cemetery property.

(4) Activities described in Section 9677.

§ 9605.2. A crematory manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, or operating a crematory licensed under this chapter, and the cremation of human remains.

§ 9606. The definitions in Chapter 1 of Part 1 of Division 7 of the Health and Safety Code are applicable to this act.

§ 9607. "Cemetery licensee" means any cemetery broker, cemetery salesperson, or cemetery manager.

§ 9607.5. "Crematory licensee" shall mean a corporation, partnership, or natural person licensed pursuant to Article 8 (commencing with Section 9780) and shall mean a cemetery licensee for purposes of disciplinary action under Article 6 (commencing with Section 9725).

§ 9607.6. A cremated remains disposer is a person who, for his or her own account or for another, disposes of, or offers to dispose of, cremated human remains by scattering over or on land or sea.

§ 9608. "Endowment care" or "endowed care" shall include both general and special care funds.

§ 9608.5. An "occasional sale" is a sale of cemetery property not acquired or held for purposes of resale or speculation, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute engaging in the business of selling or reselling or holding for speculation cemetery property.

§ 9608.6. "Public cemetery" means a cemetery owned and operated by a city, county, city and county, or public cemetery district.

§ 9609. This act does not apply to any of the following:

(a) A religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.

(b) A public cemetery.

(c) Any private or fraternal burial park not exceeding 10 acres in area, established prior to September 19, 1939; however, (1) such cemeteries shall be subject to the cemetery brokerage provisions of this act, and (2) any such cemetery shall be subject to all of the provisions of this act if it collects a care, maintenance or embellishment deposit or sets up a trust for burial purposes pursuant to Section 8775 of the Health and Safety Code, including funeral services such as mortuary, cremation or other commodities or services furnished at the time of and in connection with such funeral or cremation.

§ 9610. The bureau shall do both of the following:

(a) Conduct a comprehensive study of the need for the regulation of proprietary employees of religious corporations, churches, religious societies, and religious denominations.

(b) Report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004, on the matter specified in subdivision (a).

Article 2. Administration ..... 9625-9631

§ 9625. There is in the department, the Cemetery and Funeral Bureau, under the supervision and control of the director.

The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

§ 9630. The bureau may establish necessary rules and regulations for the administration and enforcement of this act and the laws subject to its jurisdiction and

prescribe the form of statements and reports provided for in this act. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

§ 9631. In the enforcement of this act and the laws subject to its jurisdiction, the bureau has all the powers and is subject to all the responsibilities vested in and imposed upon the head of a department under Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Regulation of Cemeteries ..... 9650-9663

§ 9650. (a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 9650.1, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 9659.

(5) A statement showing the transactions entered into between the corporation or any officer, employee or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) shall be accompanied by an annual audit report of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.



(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an additional 30 days within which to file the report.

§ 9650.1. Each cemetery authority requesting a change of filing date of the endowment care fund report from a calendar year to a fiscal year or a change in fiscal year shall file a petition with the bureau prior to the close of the year of request. The bureau may approve such petition provided that no report shall be for a period of more than 12 months.

§ 9650.2. The report shall state the name of the trustee or trustees of the endowment care fund. Any change of trustee shall be reported to the bureau within a period of 30 days after the change is made.

§ 9650.3. A copy of each annual audit report shall be transmitted to the bureau and shall be a public record. It shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

§ 9650.4. (a) Any cemetery authority that does not file its report within the time prescribed by Section 9650 may be assessed a fine by the bureau in an amount not to exceed four hundred dollars (\$400) per month for a maximum of five months. The amount of the fine shall be established by regulation in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Failure to pay the fine within 15 days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed, within 15 days after receipt of written notification of the bureau's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request therefor. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau may waive or reduce the fine where a timely request is made and where it determines, in its discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

§ 9651. The bureau shall examine the reports filed with it as to their compliance with the requirements of the Health and Safety Code as to the amount of endowment care funds collected and as to the manner of investment of such funds.

§ 9652. The bureau shall examine the endowment care funds of a cemetery authority:

- (a) Whenever it deems necessary and at least once every five years;
- (b) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this article; or
- (c) Whenever the accountant or auditor qualifies his or her certification of the report that is prepared and signed by a certified public accountant licensed in the state and prepared in accordance with Section 9650.
- (d) The reasonable and necessary cost of the examination performed under subdivision (b) or (c) shall be paid by the cemetery authority.

A certified copy of the actual costs, or a good faith estimate of the costs where actual costs are not available, signed by the director or his or her designee, shall be prima facie evidence of the reasonable and necessary costs of the examination.

The actual and necessary expense of the examination under subdivision (a) shall, in the discretion of the bureau, be paid by the cemetery authority whenever the examination requires more than one day and the need for continuing the examination is directly related to identified omissions and errors in the management of endowment care funds.

§ 9652.1. If any cemetery authority refuses to pay such expenses, the bureau shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the bureau shall be paid into the State Treasury to the credit of the Cemetery Fund.

§ 9653. (a) In making the examination the bureau:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the bureau, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds. If a cemetery authority fails to reasonably comply with this request, the bureau may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

§ 9654. The bureau may administer oaths and examine under oath any person relative to the endowment care fund. Such examination shall be conducted in the principal office of the person or body in charge of the endowment care fund and shall be private.

§ 9655. If any examination made by the bureau, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by the Health and Safety Code since September 19, 1939, the bureau shall require such cemetery corporation to comply with Sections 8743 and 8744 of the Health and Safety Code.

§ 9656. Whenever the bureau finds, after notice and hearing, that any endowment care funds have been invested in violation of the Health and Safety Code, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity to that code within a period which shall be not less than two years if the investment was made prior to October 1, 1949, not less than six months if the investment was made on or after October 1, 1949, and before the effective date of the amendment of this section by the 1969 Regular Session of the Legislature, and not less than 30 days if the investment is made on or after the effective date of the amendment. The period may be extended by the bureau in its discretion.

§ 9656.1. The superior court of the county in which the principal office of the cemetery authority in charge of endowment care funds is located shall, upon the filing by the bureau of a verified application showing any of the following conditions hereinafter enumerated to exist, issue its order vesting title to any endowment care funds of a cemetery authority in the bureau, and directing the bureau forthwith to take possession of all necessary books, records, property, real and personal, and assets, and to conduct as conservator, the management of such endowment care funds, or so much thereof as to the bureau may seem appropriate:

(a) That the cemetery authority has refused to submit its books, papers, accounts, or affairs to the reasonable examination of the bureau.

(b) That the cemetery authority has neglected to observe an order of the bureau to make good within the time prescribed by law any deficiency in its investments of endowment care funds.

(c) That the cemetery authority is found, after an examination, to be in such condition that its further management of its endowment care funds will be hazardous to its members, plotters, or to the public.

(d) That the cemetery authority has violated its articles of incorporation or any law of the state.

(e) That any officer, director, agent, servant or employee of the cemetery authority person refuses to be examined under oath relative to the endowment care funds thereof.

(f) That any person has embezzled or otherwise wrongfully diverted any of the endowment care funds of the cemetery authority.

The order shall continue in force and effect until, on the application either of the bureau or of the cemetery authority, it shall, after a full hearing, appear to the court that the ground for the order does not exist or has been removed and that the cemetery authority can properly resume title and possession of its property and the management of its endowment care funds.

§ 9656.2. When it has been alleged by verified petition pursuant to Section 9652 or when the bureau on its own investigation determines that there is probable cause to believe that any of the conditions set forth in Section 9656.1 exist or that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred or may occur unless the bureau so acts immediately, the bureau, without notice and before applying to the court for any order, may take possession of the endowment care funds and the books, records, and accounts relating thereto of the cemetery authority, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any assets, books or records of a cemetery authority against which a seizure order has been issued by the bureau shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment not exceeding one year, or by both that fine and imprisonment.

§ 9656.25. If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the bureau holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

§ 9656.3. Whenever the bureau makes any seizure as provided in Section 9656.2, it shall, on demand of the bureau, be the duty of the sheriff of any county of this state, and of the police department of any municipal corporation therein, to furnish the bureau with deputies, patrolmen or officers as may be necessary to assist the bureau in making and enforcing that seizure.

§ 9656.4. Immediately after effecting a seizure pursuant to Section 9656.2, the bureau shall institute a proceeding as provided for in Section 9656.1.

§ 9656.45. Notwithstanding any other provision of law, the bureau shall be the custodian of all moneys collected or surrendered pursuant to Sections 9656.1 and 9656.2. As custodian, the bureau may deposit those moneys, or any part thereof, without court approval, in any of the following: a bank or trust company legally authorized and empowered by the state to act as a trustee in the handling of trust funds;

in a centralized State Treasury system bank account; or in funds administered by the State Treasurer.

§ 9656.5. The bureau shall maintain, regulate, operate, and control the property situated in Amador County, referred to as the Elkin Property in Judicial Council Coordination Proceedings Nos. 1814 and 1817, Order Re Proposed Neptune Memorial, Disposition of the Elkin Property, and Order Re Final Disposition of Ashes of the Sacramento Superior Court, and legally described as "Parcel 16-B as shown on the certain Record or Survey for Eugene S. Lowrance, et ux, filed for record May 17, 1971, in Book 17 of Maps and Plats at page 87, Amador County Records." The bureau shall administer and supervise endowment funds established by the court for the property. The bureau shall exercise the authority granted by this section for the sole purpose of protecting the human remains resting on the property and preserving the property in its natural state.

§ 9657. The bureau is authorized to bring action to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the Attorney General.

§ 9658. The bureau shall enforce and administer Part 1 (commencing with Section 8100), Part 3 (commencing with Section 8250), and Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

§ 9659. In any report to the bureau all bonds, debentures or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

- (a) If purchased at par at the par value.
- (b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.
- (c) In such valuation the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

§ 9660. Any security or other evidence of debt if in default as to principal or interest or if not amply secured shall not be valued as an asset of the endowment care fund above its market value.

§ 9661. Notwithstanding any other provision of law, every cemetery authority shall present to the survivor of the deceased who is handling the burial or cremation arrangements or the responsible party a copy of any preneed agreement that has been signed and paid in full, or in part, by or on behalf of the deceased and is in the

possession of the cemetery authority. The copy may be presented in person, by certified mail, or by facsimile transmission, as agreed upon by the survivor of the deceased or the responsible party. A cemetery authority who knowingly fails to present the preneed agreement to the survivor of the deceased or the responsible party shall be liable for a civil fine equal to three times the cost of the preneed agreement, or one thousand dollars (\$1,000), whichever is greater.

§ 9662. The current address, telephone number, and name of the bureau shall appear on the first page of any contract for goods and services offered by a cemetery authority or crematory. At a minimum, the information shall be in 8-point boldface type and make the following statement:

"FOR MORE INFORMATION ON FUNERAL, CEMETERY AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL BUREAU, (ADDRESS), (TELEPHONE NUMBER)."

A cemetery authority or crematory operator shall supply the above information in writing when presenting a sales contract to any individual.

§ 9663. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A cemetery authority shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to drafting a contract for cemetery goods or services, the cemetery authority or cemetery licensee shall provide to the consumer, for retention, a copy of the consumer guide for funeral and cemetery purchases specified.

Article 4. Cemetery Brokerage Regulations ..... 9675-9686

§ 9675. This article does not apply to the following cases or to the following persons:

(a) A person acting with reference to an occasional sale of his or her own property.

(b) The regular officers of a cemetery corporation holding a certificate of authority acting with reference to the corporation's property when they receive no special compensation therefor.

(c) Persons making an occasional sale under a duly executed power of attorney from others.

(d) The services rendered by an attorney at law in performing his or her duties in that capacity.

(e) A receiver, trustee in bankruptcy, any person acting under orders of any court, or a trustee selling under a deed of trust.

(f) A real estate broker or real estate salesperson, acting in that capacity in connection with the sale, lease or exchange of real property, or interest therein, when the transfer of cemetery property is purely incidental to the sale, lease or exchange of real property.

§ 9676. No person shall engage in the business of, act in the capacity of, advertise or assume to act as, a cemetery broker or cemetery salesperson in this state without first obtaining a license from the bureau.

§ 9677. Any act other than an occasional sale of buying or selling, leasing or exchanging cemetery property or interment services of or for another or on his or her own account, or offering for another or for his or her own account to buy or sell, lease or exchange cemetery property or interment services, or negotiating the purchase or sale, lease or exchange of cemetery property or interment services, or negotiating the purchase or sale, lease or exchange, or listing or soliciting, or negotiating a loan on or leasing of cemetery property or interment services constitutes the person making such offer, sale or purchase, exchange or lease, or negotiating the loan, or listing or soliciting, a cemetery broker or cemetery salesperson.

§ 9678. No person engaged in the business or acting in the capacity of a broker or a salesperson within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he or she was a duly licensed cemetery broker or cemetery salesperson at the time the alleged cause of action arose.

§ 9679. No cemetery broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed cemetery broker, or a cemetery salesperson licensed under the cemetery broker employing or compensating him or her. No cemetery salesperson shall be employed by or accept compensation from any person other than the cemetery broker under whom he or she is at the time licensed.

No salesperson shall pay any compensation for performing any of the acts within the scope of this article to any licensee except through the cemetery broker under whom he or she is at the time licensed.

For a violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

§ 9680. It is a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100) for each offense, for any person, whether obligor, escrowholder or otherwise, to

pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payer that he or she is a licensed cemetery broker at the time such compensation is earned.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

§ 9681. Any person acting as a cemetery broker or cemetery salesperson without a license, or who advertises so as to indicate he or she is a cemetery broker without being so licensed, is guilty of a misdemeanor. If that person is a corporation, it shall be punished by a fine of not to exceed five thousand dollars (\$5,000).

§ 9682. Any cemetery salesperson or cemetery broker who sells, causes to be sold, or offers for sale any cemetery property upon the promise, guarantee or representation to the purchaser that the same may be resold or repurchased at a financial profit is guilty of a misdemeanor.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery salesperson or cemetery broker in accordance with the provisions of this act relating to disciplinary proceedings.

No violation of any of the provisions of this section by any cemetery salesperson or employee of any licensed cemetery broker shall cause the suspension or revocation of the license of the employer of the salesperson or employee unless it appears upon a hearing by the bureau that the employer had guilty knowledge of such violation.

§ 9683. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution, or circularization of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes it to be issued, circulated, published or distributed, or who in any other respect willfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the bureau under the provisions of this act relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he or she shall be held to trial by the bureau for a suspension or revocation of this cemetery license, as provided in the provisions of this act relating to disciplinary proceedings.

§ 9684. Each cemetery broker, other than a cemetery corporation holding a certificate of authority, and each cemetery salesperson must include in any advertising a statement that he or she is acting as a cemetery broker or cemetery salesperson.



§ 9685. For violation of any of the provisions of Section 9684 the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

§ 9686. Any person, other than a person making an occasional sale, who advertises cemetery property for sale or exchange, without being duly licensed as a cemetery broker or a cemetery salesperson, or without possessing a certificate of authority as a cemetery corporation, is guilty of a misdemeanor. If such person is a corporation, it shall be punished by a fine of not to exceed five thousand dollars (\$5,000).

Article 5.       Licenses and Certificate of Authority ..... 9700-9723.2

§ 9700. Application for license as a cemetery broker shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the original cemetery broker's license fee.

§ 9700.5. The bureau shall not grant an original cemetery broker's license to any person who is not a resident of this state. Change of residence to another state shall terminate the license.

§ 9700.6. The bureau shall not grant an original cemetery broker's license to any person who has not held a cemetery salesperson's license for at least two years prior to the date of his or her application for the broker's license, and during that time was not actively engaged in the business of a cemetery salesperson except that if an applicant for a cemetery broker's license having at least the equivalent of two years' general cemetery experience files a written petition with the bureau setting forth his or her qualifications and experience and the bureau approves, he or she may be issued a cemetery broker's license immediately upon passing the appropriate examinations and satisfying the other requirements of this article.

§ 9701. Application for license as a cemetery salesperson shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be signed by the applicant, and shall be accompanied by the cemetery salesperson's license fee.

§ 9701.5. Notwithstanding any other provision of this chapter, Section 9702.5 does not apply to an applicant for a cemetery salesperson's license.

§ 9702.1. The bureau shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the license applied for to an applicant on a showing satisfactory to it that the following facts exist:

(a) The applicant is properly qualified to perform the duties of a cemetery broker or salesperson.

(b) Granting the license will not be against public interest.

(c) The applicant intends actively and in good faith to carry on the business of a cemetery broker or a cemetery salesperson.

(d) In the case of a corporate applicant, the articles of incorporation permit it to act as a cemetery broker.

(e) In the case of an association or copartnership applying for such a license its articles of association or agreement of partnership authorize it to act as a cemetery broker.

(f) The license is not being secured for the purpose of permitting the applicant to advertise as a cemetery broker or salesperson without actually engaging in such business.

(g) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

§ 9702.2. All cemetery brokers who do not possess a certificate of authority shall in addition to the requirements of this chapter file with the bureau a satisfactory bond to the people of the State of California, duly executed by a sufficient surety or sureties to be approved by the bureau, in the amount of ten thousand dollars (\$10,000). That bond shall be conditioned for the honest and faithful performance by such broker and his or her salespersons and employees of any undertaking as a licensed cemetery broker or salesperson or employee of said broker at any time when licensed under this chapter, and the strict compliance with the provisions of this chapter and of Division 8 of the Health and Safety Code relating to cemeteries, and the honest and faithful application of all funds received. That bond shall be further conditioned upon the payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this chapter or of Division 8 of the Health and Safety Code relating to cemeteries, or by reason of the violation of the obligation of such broker as an agent, as such obligations are laid down by the Civil Code of the State of California, or by reason of any fraud connected with or growing out of any transactions contemplated by this chapter or Division 8 of the Health and Safety Code.

§ 9702.5. The bureau shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent or member thereof through whom it proposes to act as a cemetery licensee has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of:

(1) Cemetery associations, cemetery corporations and duties of directors.

(2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.

(3) Establishing, dedicating, maintaining, managing, operating, improving and conducting a cemetery.

(4) The care, preservation and embellishment of cemetery property.

(5) The care and preservation of endowment care funds, trust funds, and the investment thereof.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of cemetery brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this act relating to cemetery brokerage.

§ 9703. The bureau may, in its discretion, waive the examination of any applicant for a cemetery broker's license who held an unrevoked or unsuspended cemetery license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

§ 9704. An application on the form prescribed by the bureau for the renewal of any unrevoked and unsuspended license filed before midnight of June 30th of the year for which such unrevoked and unsuspended license was issued, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his or her existing license after its usual expiration date, if not previously suspended or revoked, and until such date as he or she is notified in writing that the application has been granted or denied.

§ 9706. No cemetery license gives authority to do any act specified in this act to any person other than the person to whom the license is issued.

§ 9707. When a cemetery brokerage license is issued to a cemetery brokerage corporation, if it desires any of its officers other than the officer through whom it is already licensed to act under its license as a cemetery broker, it shall procure an additional license for each such officer. When a cemetery brokerage license is granted to cemetery brokerage copartnership, if it desires any of its members other than the one through whom it is already licensed to act as a cemetery broker, it shall procure an additional license for each such member.

§ 9708. Each officer of a corporation through whom it is licensed to act as a cemetery broker, and each member of a copartnership through whom it is licensed to act as a cemetery broker, is, while so employed under such license, a licensed cemetery broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

§ 9709. The cemetery licenses of both broker and salesperson shall be prominently displayed in the office of the broker.

The cemetery salesperson's license shall remain in the possession of the licensed cemetery broker employer until canceled or until the salesperson leaves the employ of the broker.

§ 9710. Immediately upon the salesperson's withdrawal from the employ of the broker, the broker shall return the salesperson's license to the bureau for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of the license.

§ 9711. Every licensed cemetery broker shall have and maintain a definite place of business in this state which shall serve as his or her office for the transaction of business.

No cemetery license authorizes the licensee to do business except from the location for which the cemetery license was issued.

Notice in writing shall be given the bureau of change of business location of a cemetery broker, whereupon the bureau shall issue a new cemetery license for the unexpired period. The change or abandonment of business location without notification to the bureau shall automatically cancel the license theretofore issued.

§ 9712. If the applicant for a cemetery broker's license maintains more than one place of business within the state he or she shall apply for and procure an additional license for each branch office so maintained. Every such application shall state the name of the person and the location of the place of business for which such license is desired.

The bureau may determine whether or not a broker is doing a cemetery brokerage business at or from any particular location which requires him or her to have a branch office license.

§ 9713. Each cemetery broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he or she is a licensed cemetery broker and his or her name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the bureau.

§ 9714. For a violation of any of the provisions of Sections 9709, 9710, 9711 and 9713, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

§ 9715. Application for a certificate of authority shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application

shall be accompanied by the fee provided for in this act and shall show that the cemetery authority owns or is actively operating a cemetery in this state which is subject to the provisions of the Cemetery Act or that the applicant is in a position to commence operating a cemetery.

§ 9715.1. (a) Each cemetery for which a certificate of authority is required shall be operated under the supervision of a manager who is qualified in accordance with the regulations adopted by the bureau. Each cemetery manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code. No person shall engage in the business of, act in the capacity of, or advertise or assume to act as, a cemetery manager without first obtaining a license from the bureau.

(b) This section shall become operative on July 1, 2003.

§ 9716. The bureau may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable.

§ 9717. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for certificates of authority. In reviewing an application for a certificate of authority, the bureau may consider acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a certificate of authority under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a certificate of authority, the bureau may cause an investigation to be made of the physical status, plans, specifications and financing of the proposed cemetery, and any other qualifications required of the applicant under this act, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this section, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars (\$400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars (\$900).

§ 9718. The bureau may, in accordance with its rules and regulations, authorize interments in cemeteries for which there is no currently valid certificate of authority outstanding if the bureau finds that rights to interment therein will otherwise be impaired. However, nothing in this section authorizes sales of lots, vaults, or niches by cemeteries for which there is no currently valid certificate of authority. Interments permitted under this section shall be conducted by persons authorized by the bureau in accordance with its regulations, and Section 9768 shall not be applicable to such interments.

The bureau or its representative shall be entitled to inspect and copy any cemetery records necessary to the performance of interments under this section, and any person having custody of those records shall permit inspection and copying thereof for that purpose. The bureau may apply to the superior court for the county in which the cemetery is located for an order temporarily transferring custody of cemetery records to it for purposes of this section.

§ 9719. The bureau shall inspect the books, records, and premises of any crematory licensed under this chapter. In making those inspections, the bureau shall have access to all books and records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the crematory is in operation. No prior notification of the inspection is required to be given to the crematory licensee. If any crematory licensee fails to allow that inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

§ 9720. The bureau shall annually conduct a minimum of one unannounced inspection of each licensed crematory.

§ 9721. (a) The bureau shall inspect the books, records, and premises of any cemetery where a certificate of authority is required under this chapter. In making the inspections, the bureau shall have access to all books and records, buildings, mausoleums, columbariums, storage areas, including storage areas for human remains, during regular office hours or the hours the cemetery is in operation. No prior notification of the inspection is required to be given to the holder of the certificate of authority. If any certificate holder fails to allow the inspection or any part thereof, disciplinary action including, but not limited to, revocation or suspension may be taken against the certificate of authority. All disciplinary proceedings shall be conducted in accordance with this chapter.

(b) This section shall become operative on July 1, 2003.

§ 9722. (a) The bureau shall annually conduct a minimum of one unannounced inspection of each cemetery for which a certificate of authority is required.

(b) This section shall become operative on July 1, 2003.

§ 9723. A cemetery licensed under this chapter shall at all times employ a licensed cemetery manager to manage, supervise, and direct its operations. Notwithstanding any other provision of this chapter, licensed cemeteries within close geographical proximity of each other may request the bureau to allow a licensed cemetery manager to manage, supervise, and direct the business or profession of more than one facility.

(a) Every cemetery shall designate a licensed cemetery manager to manage the cemetery, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.

(b) The designated cemetery manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the cemetery as is necessary to ensure full compliance with the applicable provisions of the Business and Professions Code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated cemetery manager or the licensed cemetery to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A cemetery may employ, in addition to the designated cemetery manager, additional licensed cemetery managers. However, only one licensed cemetery manager may be appointed as the designated cemetery manager of the cemetery.

§ 9723.1. (a) Application for a cemetery manager license shall be made in writing on the form provided by the bureau, verified by the applicant, and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a cemetery manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a cemetery manager license to any applicant who meets the requirements of this chapter and who has successfully passed the cemetery manager examination administered by the bureau.

(d) Notwithstanding subdivision (c), until July 1, 2004, the bureau shall grant a cemetery manager license to any applicant who meets the requirements of this chapter and can demonstrate that he or she has, prior to January 1, 2003, successfully passed the cemetery manager examination administered by the bureau. Any person who is eligible to obtain a cemetery manager license under this subdivision and who does not apply for a license by July 1, 2004, shall apply for and successfully pass the examination.

§ 9723.2. (a) No person shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without holding a valid, unexpired cemetery manager license issued by the bureau.

(b) No licensed cemetery manager shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without being employed by, or without being a corporate officer of a licensed cemetery.

Article 6. Disciplinary Proceedings..... 9725-9737

§ 9725. Upon grounds provided in this article and the other articles of this act, the license of any cemetery licensee and the certificate of authority of any cemetery corporation may be revoked or suspended in accordance with the provisions of this article.

§ 9725.1. Unprofessional conduct by any licensee or registrant or by any agent or employee of a licensee or registrant constitutes grounds for disciplinary action. Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of this chapter and any regulation adopted thereunder, or of any federal or state law or regulation governing the disposition of human remains, operation of cemeteries or crematories, the sale of cemetery property, or the sale of crematory services or commodities.

(b) Negligence in performing any act related to the operation of a cemetery or crematory.

§ 9726. The bureau may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee in performing or attempting to perform any of the acts specified in this act, has been guilty of any of the following:

(a) Making any substantial misrepresentation.

(b) Making any false statement of a character likely to influence or persuade.

(c) A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salespersons.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his or her principal with his or her own.

(f) The practice of claiming or demanding a fee, compensation or commission under any exclusive agreement authorizing or employing a licensee to sell, buy or exchange cemetery property for compensation or commission where such agreement does not contain a definite, specified date of final and complete termination.

(g) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission or profit or the failure of a licensee to reveal to the employer of such licensee the full amount of such licensee's compensation, commission or profit under any agreement authorizing or employing such licensee to sell, buy or exchange cemetery property for compensation or commission prior to or coincident with the signing of such agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.

(h) The use by a licensee of any provision allowing the licensee an option to purchase in an agreement authorizing or employing such licensee to sell, buy, or



exchange cemetery property for compensation or commission, except when such licensee prior to or coincident with election to exercise such option to purchase reveals in writing to the employer the full amount of licensee's profit and obtains the written consent of the employer approving the amount of such profit.

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

The misrepresentations and false statements mentioned in this section include also misrepresentation and false statements as to other property than that which the cemetery licensee may be selling or attempting to sell.

§ 9727. The bureau may suspend or revoke the license of any cemetery licensee who, within the immediately preceding three years, has done any of the following:

(a) Been convicted of a crime substantially related to the qualifications, functions and duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business or any cemetery property offered for sale.

(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery brokerage.

(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a cemetery license, or for a renewal thereof.

§ 9727.1. The bureau may suspend or revoke the license of any cemetery licensee who procures a cemetery license, for himself or herself or any salesperson, by fraud, misrepresentation or deceit. An action to suspend or revoke a license for a violation of the provisions of this section shall be commenced within three years after the discovery by the bureau of that violation.

§ 9727.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

§ 9728. When any salesperson is discharged by his or her employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the bureau by the employer and, if the employer fails to notify the bureau as required by this

section, the bureau may temporarily suspend or permanently revoke the cemetery license of the employer in accordance with the provisions of this act.

§ 9729. The bureau may deny, suspend or revoke the cemetery license of a corporation as to any officer or agent acting under its cemetery license, and the cemetery license of a copartnership as to any member acting under its cemetery license, without revoking the cemetery license of the corporation or of the copartnership.

§ 9730. The fees for cemetery licenses at all periods of the fiscal year is the same as provided in this article. All cemetery license fees are payable in advance of issuing the licenses and at the time of filing the application. All licenses shall be issued for the fiscal year and shall expire on June 30th of each fiscal year at midnight.

§ 9731. If a person fails to apply for a license renewal, no renewal license shall be issued except upon payment of the delinquent renewal fee required under Section 9750.5.

No person who fails to renew his or her license within one year of the expiration date can engage in any of the activities authorized by a license unless he or she first files the application required for an original license, pays the original license fee, and otherwise complies with all of the provisions of this act pertaining to the issuance of an original license.

§ 9732. The definitions contained in this article are solely for the purposes of this article.

§ 9733. An original cemetery broker's license is a cemetery license issued to a person who did not have a cemetery broker's license on June 30th of the fiscal year previous to the fiscal year for which the license is issued.

§ 9734. A renewal cemetery broker's license is a cemetery license issued to a person who had a cemetery broker's license unrevoked and unsuspended on June 30th of the fiscal year previous to the fiscal year for which the renewal cemetery license is issued.

§ 9735. An original cemetery salesperson's license is a cemetery license issued to a person who did not have a cemetery salesperson's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesperson's license is issued.

§ 9736. A renewal cemetery salesperson's license is a cemetery license issued to a person who had a cemetery salesperson's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesperson's license is issued.

§ 9737. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

Article 6.5. Created Remains Disposers ..... 9740-9749.5

§ 9740. No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

§ 9741. (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

§ 9741.1. The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

§ 9742. All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

§ 9743. A cremated remains disposer who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be subject to disciplinary action.

§ 9744. Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering .

§ 9744.5. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and phone number of any storage facility being used by the registrant to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

§ 9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

§ 9746. All cremated remains disposer registrations shall expire at 12 midnight on September 30th of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

§ 9747. If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30th of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 9750.5.

§ 9748. Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.

§ 9749. Any person who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

§ 9749.3. Any cremated remains disposer who stores cremated remains in a reckless manner that results in either of the following is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment:

- (a) Loss of all or part of the cremated remains.
- (b) Inability to individually identify the cremated remains.

§ 9749.5. A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725). Any violation of this article shall also be grounds for disciplinary action.

Article 7. Fees..... 9750-9770

§ 9750. The amount of fees prescribed for a license or certificate of authority under this act is that fixed by the following provisions of this article. Any license or certificate of authority provided under this act that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal and regulatory fees.

§ 9750.5. The delinquent renewal fee for a license, registration, or certificate of authority under this chapter shall be 150 percent of the timely fee, but not less than the renewal fee plus twenty-five dollars (\$25).

§ 9751. The original cemetery broker's license fee shall be fixed by the bureau at not more than four hundred dollars (\$400).

§ 9752. The original cemetery broker's license fee is payable at the time of the filing of an application for an original cemetery broker's license.

If the applicant fails the required written examination, he or she may be permitted to take another examination upon the filing of an application for reexamination and the payment of a reexamination fee. This reexamination fee shall be fixed by the bureau at not more than one hundred dollars (\$100).

No part of any original cemetery broker's license fee or reexamination fee is refundable. It is deemed earned upon receipt by the bureau, whether the accompanying application for a license is complete or incomplete.

§ 9753. The annual renewal fee for a cemetery broker's license shall be fixed by the bureau at not more than three hundred dollars (\$300).

§ 9754. If the licensee is a cemetery brokerage corporation, the license issued to it entitles one officer only, on behalf of the corporation, to engage in the business of a cemetery broker without the payment of a further fee, that officer to be designated in the application of the corporation for a license. For each other officer of a licensed cemetery brokerage corporation, through whom it engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the corporation, shall be fixed by the bureau at not more than one hundred dollars (\$100).

§ 9755. If the licensee is a cemetery brokerage copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of a cemetery broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the copartnership, shall be fixed by the bureau at not more than one hundred dollars (\$100).

§ 9756. The cemetery salesperson's license fee shall be fixed by the bureau at not more than thirty dollars (\$30).

§ 9757. A cemetery salesperson's license fee is payable on each filing of an application for a cemetery salesperson's license.

§ 9759. The annual renewal fee for a cemetery salesperson's license shall be fixed by the bureau at not more than twenty-five dollars (\$25).

§ 9760. For a branch office broker's license, the fee shall be fixed by the bureau at not more than one hundred dollars (\$100).

§ 9760.5. The cremated remains disposer registration fee shall be one hundred dollars (\$100).

§ 9760.6. The renewal fee for a cremated remains disposer registration shall be fifty dollars (\$50).

§ 9761. For change of name or of address of licensee on the records of the bureau, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

§ 9762. For transfer of a salesperson's license on change of employer, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

§ 9763. For a duplicate license the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

§ 9764. For reinstatement of a license within the fiscal year, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

As used in this section, "reinstatement of a license" means the reissuance of a canceled cemetery broker's license, or a cemetery salesperson's license which was canceled during the year for which it was issued upon the salesperson's withdrawal from the employ of a cemetery broker.

§ 9764.1. (a) The fee for a crematory manager examination and reexamination may not exceed five hundred dollars (\$500).

(b) The license fee to obtain a crematory manager license may not exceed one hundred dollars (\$100).

(c) The renewal fee for a crematory manager license may not exceed one hundred dollars (\$100).

§ 9764.2. (a) The fee for a cemetery manager examination and reexamination may not exceed nine hundred dollars (\$900).

(b) The license fee to obtain a cemetery manager license may not exceed one hundred dollars (\$100).

(c) The renewal fee for a cemetery manager license may not exceed one hundred dollars (\$100).

§ 9764.3. The fee for filing a report of a change of designated manager or a request for approval to share a designated cemetery manager shall not exceed fifty dollars (\$50).

§ 9765. Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each cemetery, an additional quarterly charge of not more than eight dollars and fifty cents (\$8.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid until December 31, 2007, to the bureau and these charges shall be deposited in the Cemetery Fund. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation was performed at a crematory located on the grounds of the cemetery and under common ownership with the cemetery authority, the total of all additional charges shall be not more than eight dollars and fifty cents (\$8.50).

§ 9766. Upon payment of the charges set forth, the bureau shall issue a renewal of the certificate of authority to the cemetery authority.

§ 9767. Failure to pay the charges set forth by Section 9765 of this code prior to February 1st for each year shall be cause for suspension of the certificate of authority. The certificate may be restored upon payment to the bureau of the prescribed charges.

§ 9768. It is a misdemeanor for any cemetery corporation to make any interments without a valid certificate of authority. Each interment shall be a separate violation.

§ 9769. All moneys received by the bureau under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the bureau to the



Controller at least once a month, and at the same time these moneys shall be remitted to the Treasurer, and, upon order of the Controller, shall be deposited in the Cemetery Fund in the State Treasury, which fund is hereby created.

§ 9770. All money paid into the State Treasury and credited to the Cemetery Fund shall be expended in accordance with law for the payment of all actual and necessary expenses incurred in carrying out the provisions of this act.

Article 8.       Crematories ..... 9780-9789

§ 9780. A crematory established, operated, or maintained, may be operated by a corporation, partnership, or natural person, provided that a valid crematory license shall have been issued by the bureau. Any existing crematory operated by a licensed cemetery authority on January 1, 2002, shall have until January 1, 2003 to make application for a crematory license.

§ 9780.5. Any change in the ownership of a crematory shall be reported to the Cemetery and Funeral Bureau. Any transfer in a single transaction or a related series of transactions of more than 50 percent of the equitable interest in a licensed crematory shall constitute a change of ownership. When a change of ownership in a crematory occurs, the existing crematory license shall lapse and the new owner shall obtain a new license from the bureau as otherwise provided in this act. The bureau shall not require an applicant under this section to obtain any new permit or license from any other governmental agency when the existing permit or license is valid.

§ 9781. Application for a crematory license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this article and shall show that the applicant owns or is actively operating a crematory in this state or that the applicant is in a position to commence operating such a crematory.

§ 9781.5. The provisions of Article 5 (commencing with Section 8340) of Chapter 2 of Part 3 of Division 8 of the Health and Safety Code shall apply to crematories licensed under this chapter.

§ 9782. The bureau may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to the applicant and shall not issue such crematory license until it has satisfied itself that the public interest will be served by such applicant.

§ 9783. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for a crematory license. In reviewing an application for a crematory license, the bureau may consider acts of the applicant, including acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a crematory license under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a crematory license, the bureau may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed crematory, the character of the applicant, including, if applicable, its officers, directors, shareholders, or members, and any other qualifications required of the applicant under this article, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this article, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars (\$400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars (\$900).

§ 9784. No crematory licensee under this article shall conduct any cremations:

(a) Unless the licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of the licensee for cremation, disposition, and other services rendered, and any other contractual provisions as may be required by the bureau.

(b) Of any remains more than 24 hours after delivery of the remains, unless the remains have been preserved in the interim by refrigeration or embalming.

(c) Unless the licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

§ 9784.5. Every crematory licensee, who prohibits relatives or the responsible party from viewing the cremation process, shall disclose this fact in writing to the person or persons entitled to custody of the remains prior to the signing of any contract.

§ 9785. Each crematory licensee shall keep such records as may be required by the bureau to assure compliance with all laws relating to the disposition of cremated human remains and shall file annually with the bureau, a report in the form prescribed by the bureau, describing the operations of the licensee, including the number of cremations

made, the disposition thereof, and any other information as the bureau may, from time to time, require.

§ 9786. Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory, to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each crematory, every licensee operating a crematory pursuant to a license issued pursuant to this article shall pay until December 31, 2007, an additional charge of not more than eight dollars and fifty cents (\$8.50) per cremation made during the preceding quarter, which charges shall be deposited in the Cemetery Fund.

§ 9787. (a) Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified in accordance with rules adopted by the bureau. Each manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code.

(b) On and after July 1, 2003, no person shall engage in the business of, act in the capacity of, or advertise or assume to act as, a crematory manager without first obtaining a license from the bureau.

§ 9787.2. A crematory shall at all times employ a licensed crematory manager to manage, supervise, and direct its operations.

(a) Every crematory shall designate a licensed crematory manager to manage the crematory, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.

(b) The designated crematory manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the crematory as is necessary to ensure full compliance with the applicable provisions of the Business and Professions Code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated crematory manager or the licensed crematory to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A crematory may employ, in addition to the designated crematory manager, additional licensed crematory managers. However, only one licensed crematory manager may be appointed as the designated crematory manager of the crematory.

§ 9787.3. (a) Application for a crematory manager license shall be made in writing on the form provided by the bureau, verified by the applicant and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a crematory manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate

compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and who has successfully passed the crematory manager examination administered by the bureau.

(d) Notwithstanding subdivision (c), until July 1, 2004, the bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and can demonstrate that he or she has, prior to January 1, 2003, successfully passed the crematory manager examination administered by the bureau. Any person who is eligible to obtain a crematory manager license under this subdivision and who does not apply for a license by July 1, 2004, shall apply for and successfully pass the examination.

§ 9787.4. (a) No person shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without holding a valid, unexpired crematory manager license issued by the bureau.

(b) No licensed crematory manager shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without being employed by, or without being a sole proprietor, partner, or corporate officer of, a licensed crematory.

§ 9788. It is a misdemeanor for any person, firm, or corporation to cremate human remains or to engage in the disposition thereof without a valid, unexpired crematory license. Each cremation shall be a separate violation.

§ 9789. A crematory licensee shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725).